

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

Tony Curtis Gilmore,)	
)	
Plaintiff,)	
)	Civil Action No. 6:13-cv-01443-JMC
v.)	
)	ORDER AND OPINION
Carolyn W. Colvin,)	
Acting Commissioner of the)	
Social Security Administration,)	
)	
Defendant.)	
)	

This matter is before the court for review of the magistrate judge’s Report and Recommendation (“Report”) (ECF No. 43), filed May 12, 2014, regarding Plaintiff Tony Curtis Gilmore’s (“Plaintiff”) claim for Disability Insurance Benefits (“DIB”). The Report recommends that the court affirm the Acting Commissioner Carolyn W. Colvin’s (“the Acting Commissioner”) decision that plaintiff is and has been disabled since December 3, 2008. (*Id.* at 4.) The Report further recommends, upon the Acting Commissioner’s motion (ECF No. 37), that the court reverse the Acting Commissioner’s finding that Plaintiff was not disabled prior to December 3, 2008, and that the action be remanded for further proceedings. The Report sets forth the relevant facts and legal standards, which this court incorporates herein without a recitation.

The magistrate judge’s Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections

are made, and the court may accept, reject, or modify, in whole or in part, the magistrate judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

The parties were notified of their right to file objections. Plaintiff did not file any objections to the Report. On May 30, 2014, the Acting Commissioner filed her Reply to the Report (ECF No. 47) providing notice that the agency does not object to the Report. In the absence of objections to the magistrate judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Instead, the court must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough and careful review of the record, the court finds the magistrate judge's Report and Recommendation provides an accurate summary of the facts and law in the instant matter. The court **ACCEPTS** the magistrate judge's Report (ECF No. 43) and incorporates it herein by reference. For the reasons set out in the Report, the Acting Commissioner's final decision that Plaintiff has been disabled since December 3, 2008 is **AFFIRMED**. The Acting Commissioner's final decision regarding Plaintiff's disability prior to December 3, 2008 is **REVERSED** and **REMANDED** for additional administrative proceedings.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Court Judge

June 11, 2014
Columbia, South Carolina